

REMARKS

This application is a reissue application with respect to U.S. Patent 5,569,812. During the prosecution of this application, a number of amendments were made to the existing claims. The last filed response that contained claim amendments showed such amendments relative to the claims as then pending, some of them already in amended form. As set forth in the present Office action, the amendments to the claims should show their relationship to the issued claims, not to previous iterations, and new claims (in this case, 13-50) need to be underlined. The present amendment now conforms to this rule.

Applicants appreciate the acknowledgment of the terminal disclaimer as obviating the double patenting rejection over U.S. Patent 5,491,284.

Thus, applicants have submitted a corrected copy of the claims as required by 37 CFR § 1.173(b-d) and the requested terminal disclaimer.

The Examiner also notes that 37 CFR § 1.175(b)(1) requires a supplemental declaration from the inventors, since some of the claims were further amended during prosecution. This has presented some difficulties for the assignee, as one of the inventors cannot be found and the other has refused to execute the declaration on grounds unrelated to the nature of the errors corrected in the reissue. Accordingly, in lieu of the executed declaration, applicants include herewith a petition under 37 CFR § 1.47(b) which includes a proof of the pertinent facts, a showing that application by the assignee is necessary to preserve its rights, the fee required and the last known address of all inventors. The Office is respectfully requested to grant this petition and to accept the petition in lieu of the executed declaration.

Should further clarification or other issues be raised that need to be addressed, a telephone call to the undersigned is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 312762001530.

Respectfully submitted,

Dated: April 18, 2005

By: Kate H. Murashige
Kate H. Murashige
Registration No. 29,959

Morrison & Foerster LLP
3811 Valley Centre Drive, Suite 500
San Diego, California 92130-2332
Telephone: (858) 720-5112
Facsimile: (858) 720-5125